

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

KEITH LEARIE ALLEN,

Petitioner,

v.

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CIVIL ACTION NO. 1:09CV78  
(Judge Keeley)

WARDEN JOEL J. ZIEGLER,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 14]  
AND GRANTING RESPONDENT'S MOTION TO DISMISS, OR IN  
THE ALTERNATIVE FOR SUMMARY JUDGMENT [DKT. NO. 10]

On June 12, 2009, pro se petitioner, Keith Learie Allen ("Allen"), filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

Following an order to show cause issued by the magistrate judge, the defendant, Warden Joel J. Ziegler ("Ziegler"), filed a motion to dismiss, or in the alternative for summary judgment, on August 14, 2009. Although the Court issued a Roseboro notice to Allen on August 18, 2009,<sup>1</sup> he filed no response. Magistrate Judge Seibert then issued his Opinion and Report and Recommendation ("R&R") on September 23, 2009, recommending that the defendant's motion to dismiss be granted, Allen's petition under § 2241 be denied and the case be dismissed.

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<sup>1</sup> Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975).

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The R&R also specifically warned Allen that failure to object to the recommendation within ten days of receipt of the R&R would result in his waiver of any appellate rights on this issue. No objections were filed.<sup>2</sup>

The Court, therefore, **ADOPTS** the Report and Recommendation of the magistrate judge in its entirety (dkt. no. 14), **GRANTS** the motion to dismiss (dkt. no. 10), **DENIES** Allen's petition under § 2241 (dkt. no. 1), and **ORDERS** that this case be and it is **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Court directs the Clerk to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: November 16, 2009

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).